A. 80

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE ADAMS GOLF, INC. SECURITIES LITIGATION	CONSOLIDATED C.A. No. 99-371 KAJ

AFFIDAVIT OF R. ALAN MILLER IN SUPPORT OF PLAINTIFFS' OPPOSITION TO THE ADAMS GOLF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

R. ALAN MILLER declares as follows:

1. I submit this affidavit in connection with plaintiffs' opposition to the Adams Golf defendants' motion for summary judgment.

2. With respect to the deposition testimony of Dr. James, defendants' expert, on August 11, 2006, I note particularly three positions that James asserted that were new or amplified from the positions James took in his opening and rebuttal reports. First, James allowed for the possibility that material information could "leak" into the market. That is, as I understand James's deposition testimony, it is possible for rumor, oral communication, or observation to materially affect stock prices. See James Dep. Tr., pp. 116, 121-22, 126-31 (cited pages attached hereto at Tab A). Second, James asserted (or admitted) that under some circumstances it is permissible to use event windows of two days. Tab A, pp. 221-22. Third, the industry index that I employed in the analysis contained in my rebuttal report -- the "Miller index", as James referred to it – as well as the Standard & Poors ("S&P") Small Cap index may be considered, in James's view, in connection with running daily regression analyses in this case. Tab A, pp. 85-

94.

3. In addition, James asserted for the first time at his deposition that the decline in the price of Adams Golf stock during July 1998 was consistent with the declines in the Miller index and the S&P Small Cap index during the same period. Tab A., pp. 93-94.

4. Notwithstanding these positions that I understand James to have asserted at his deposition, James did not appear to change his position as to the dates, during and immediately after the class period, on which there occurred statistically significant stock movement. Specifically, James appears not to have changed his position, previously expressed, that during July 1998, there were no statistically significant movements in Adams Golf common stock.

5. As I expressed in my rebuttal report, I have serious reservations regarding the usability and appropriateness of event study regression analyses in a case such as this. In particular, this case involves an IPO, 1933 Act claims, and the absence of a clean "estimation" period prior to the class period.

6. Nonetheless, I have been asked to assume, arguendo, that event study regression analysis can be appropriate in a case such as this, and to attempt to replicate portions of James's regression analysis, substituting variables or assumptions as appropriate. Specifically, I refer to James's agreement at his deposition with a position to which I subscribe -- in appropriate cases, particularly where information reaches the market by way of "leakage"-- an event or measurement window in excess of a single day may be appropriate.

7. Accordingly, I caused there to be run a regression using as many assumptions as possible from the various daily regressions that James ran, <u>except</u> I lengthened the window or measurement period. My regression used or assumed a window or measurement period of 12

days after examination of the Adams Golf stock price data.. I believe that a window period of this length is appropriate in this case in view of the fact that, during the window period, the stock price was reacting to rumor, "leaked" information, or other forms of non-published disclosure. In such a situation, it is difficult to ascertain exactly when new material information enters the market. Indeed, it appears that in this case the information entered the market gradually, over a period of time, as increasing numbers of market participants gained access to the information. This exercise allowed testing of plaintiffs' assertion that the Adams Golf stock price moved in a significant fashion in July 1998 as a result of "leakage" that gray marketing was seriously affecting Adams Golf.

8. The results of this regression are set forth on Tab B to this Affidavit. We analyzed the movement of Adams Golf returns versus, or adjusted for, the returns to the NASDAQ index (used by James) for each of the 12 consecutive day periods in the Class Period and discovered that there was only a 3% chance of any other 12-day period having as significant a deviation of Adams Golf returns from NASDAQ returns as the first 12 days' returns[a] meaning that the price movements in that period contrasted with NASDAQ were statistically significant. To further test the difference between Adams Golf returns in the first 12 days and the remaining days of the Class Period—adjusted for the NASDAQ returns in the same periods—we did the following. We created a slope (trend) line analysis, first, to compare the trend in Adams Golf's price in the period July 10 through July 28, 1998 to its trend in the remaining days from July 29 on; and, second, to take into account the changes in NASDAQ returns over these same two

[a] There are 12 days of returns for the 12 trading days of July 13, 1998 through July 28, 1998. To calculate these returns requires prices for the 13 trading days from July 10, 1998 through July 28, 1998.

periods. I then compared the difference between the first 12 day period movement in Adams stock price and the rest of the Class Period to the difference between the first 12-day period movement in the NASDAQ index and its movement in the rest of the Class Period[b] and noted two results. First, the slope of Adams Golf prices over the first period (July 10 – 28, 1998) is strongly significantly different from the same slope in the remainder of the Class Period from July 29 on. Second, the difference between the differences of the Adams Golf slopes and the NASDAQ slopes over the two periods is strongly and statistically significantly different, showing that the movement in the NASDAQ index does not explain the movement in Adams Golf during July 1998. The above results confirm that Adams Golf stock moved in a statistically significant manner during the period July 10, 1998 - July 28, 1998.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on October 6, 2006.

R. Alan Miller

R. ALAN MILLER

adamsaffcollins.wpd

[b] A downward slope (trend) in prices over a period implies negative returns over the period. In general, the slope of price on day (time) is one way to measure average returns over any period.

Statistical Significance of the Drop in Adams Golf Returns July 13-July 28, 1998[1]

It is useful to assess in two different ways the statistical significance of the drop in Adams Golf returns in the first 12-day period of the class period, i.e. is the drop significantly different from "chance."

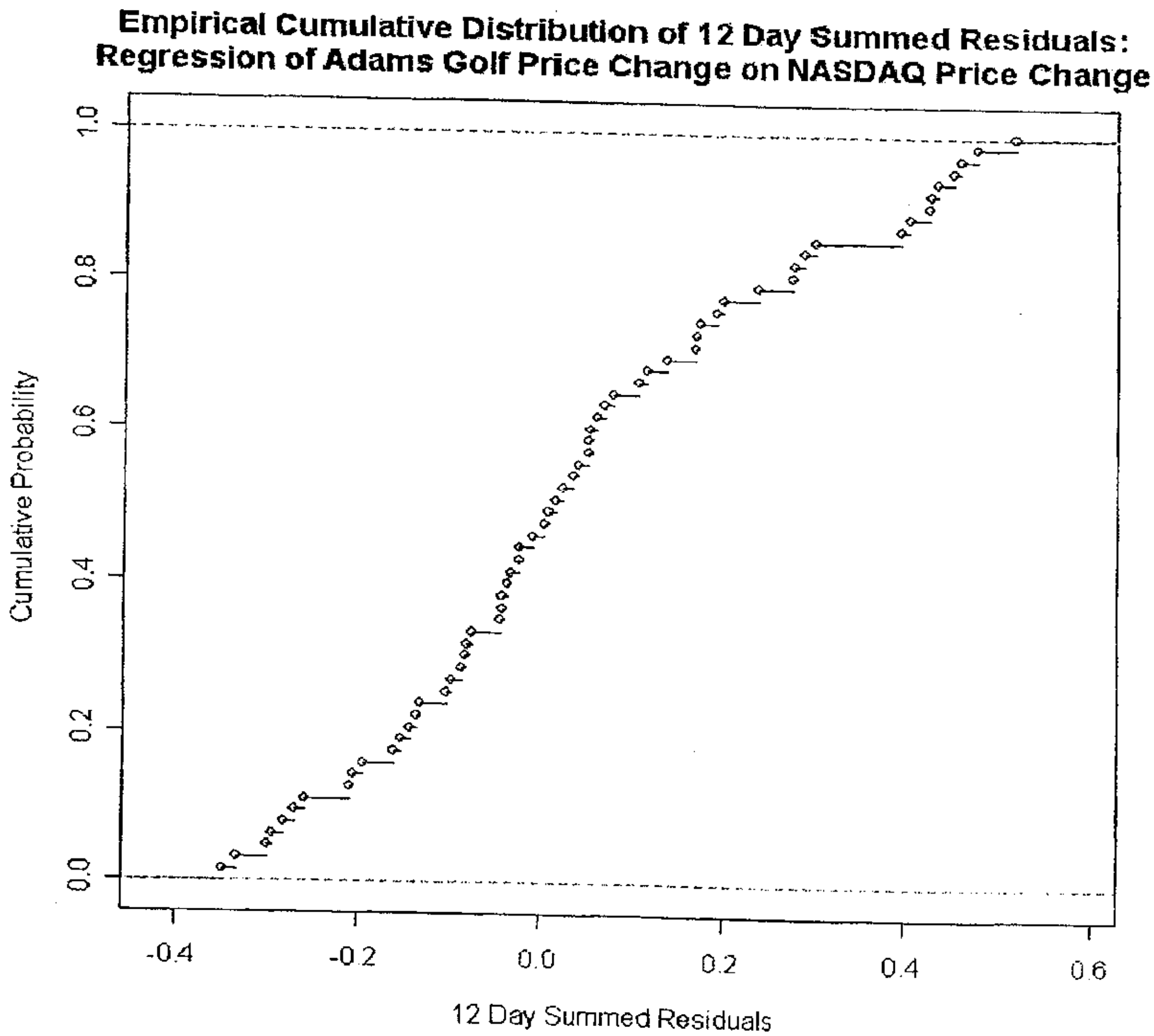
1. The first way is a largely "non-parametric" approach, which determines how unusual that 12-day drop ("net of" the NASDAQ drop over the same period) is compared to all other 12-day periods during the 75 days (there are about 62 such periods). The steps are:

- To get the Adams Golf returns net of, i.e. adjusted for, NASDAQ returns, the Adams Golf returns are regressed on the NASDAQ returns (see Addendum, page 3 below for the printout).
- Find the residuals in date order from this regression. These are James' residuals which he uses to judge statistical significance.
- Each residual is an Adams Golf return net of, i.e. adjusted for, NASDAQ returns.
- Sum the first 12 days of the residuals, and then continue to find the sums of residuals for all moving 12-day periods after that formed by advancing one day at a time.
- Find the observed cumulative distribution of these summed residuals (Figure 1).
- Find the percent of summed residuals that are less than or equal to the first 12-day period's summed residuals.
- The results are:

  The sum of residuals from the returns of July 13 through July 28, 1998 is -0.34864. The frequency (probability) of 12-day summed residuals less than or equal to -34.86% is about 3%. Since 3% is less than 5%, the first 12 days' summed residuals are statistically significant at the 5% level in terms of a non-parametric "randomization" or "permutation" test as applied to a time series.

[1] See the last page of the Addendum below for explanation of the "return" on a day. There are 12 days of returns for the 12 trading days of July 13, 1998 through July 28, 1998. To calculate these returns requires prices for the 13 trading days from July 10, 1998 through July 28, 1998.

Figure 1



2. A second way to determine if the first 12 day's returns are statistically significantly different from "chance" is to fit a "piecewise linear" model to the Adams Golf prices (not returns), and likewise to the NASDAQ prices (not returns). That is, fit lines with different slopes to the first 13 days of prices (first 12 days of returns) and the remaining 62 days of prices for Adams Golf. Repeat this for NASDAQ. The slopes of the

two lines in the Adams Golf regression are strongly statistically different from each other, and quite different in magnitude as well, establishing the existence of importantly different slopes. Further, by comparing this result to analogous regressions for the NASDAQ Index it is established that the difference in the two Adams Golf slopes between the first 13 days and the remaining days is not explained by the change in NASDAQ over these same two periods.

Addendum

Regression of daily Adams Golf returns on NASDAQ returns to adjust Adams for the market

The regression done by James is of the Adams Golf fractional price changes on the NASDAQ fractional price changes. This yields the following results (shown in R 2.3.1):

```
> summary(golf.fit.1)

Call:
lm(formula = PIBC$adgo ~ PIBC$nasdaq)

Residuals:
       Min         1Q     Median         3Q        Max
-0.1392300 -0.0466335  0.0009123  0.0354224  0.1839972

Coefficients:
              Estimate Std. Error t value Pr(>|t|)
(Intercept) -0.016495   0.007509  -2.197 0.031264 *
PIBC$nasdaq  1.200588   0.302063   3.975 0.000166 ***
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 0.06447 on 72 degrees of freedom
Multiple R-Squared: 0.1799,     Adjusted R-squared: 0.1685
F-statistic:  15.8 on 1 and 72 DF,  p-value: 0.0001657
```

The coefficient 1.200588 is significant, and is interpreted as an average 1.2 percent increase in the Adams Golf fractional price change for every 1.0 percent increase in the NASDAQ fractional price change. However, R-Squared is about 18%, which means that 82% of the variation in Adams Golf fractional price change is not explained by the NASDAQ changes.

Summary statistics for the residuals of this model are:

```
      Min.    1st Qu.     Median       Mean    3rd Qu.       Max.
-1.392e-01 -4.663e-02  9.150e-04  8.974e-20  3.542e-02  1.840e-01
```

The residual standard error is 0.06447, and the residual mean is 0. Consequently, it is expected that 95% of the residuals will lie in the interval (-0.1264, 0.1264), and 90%

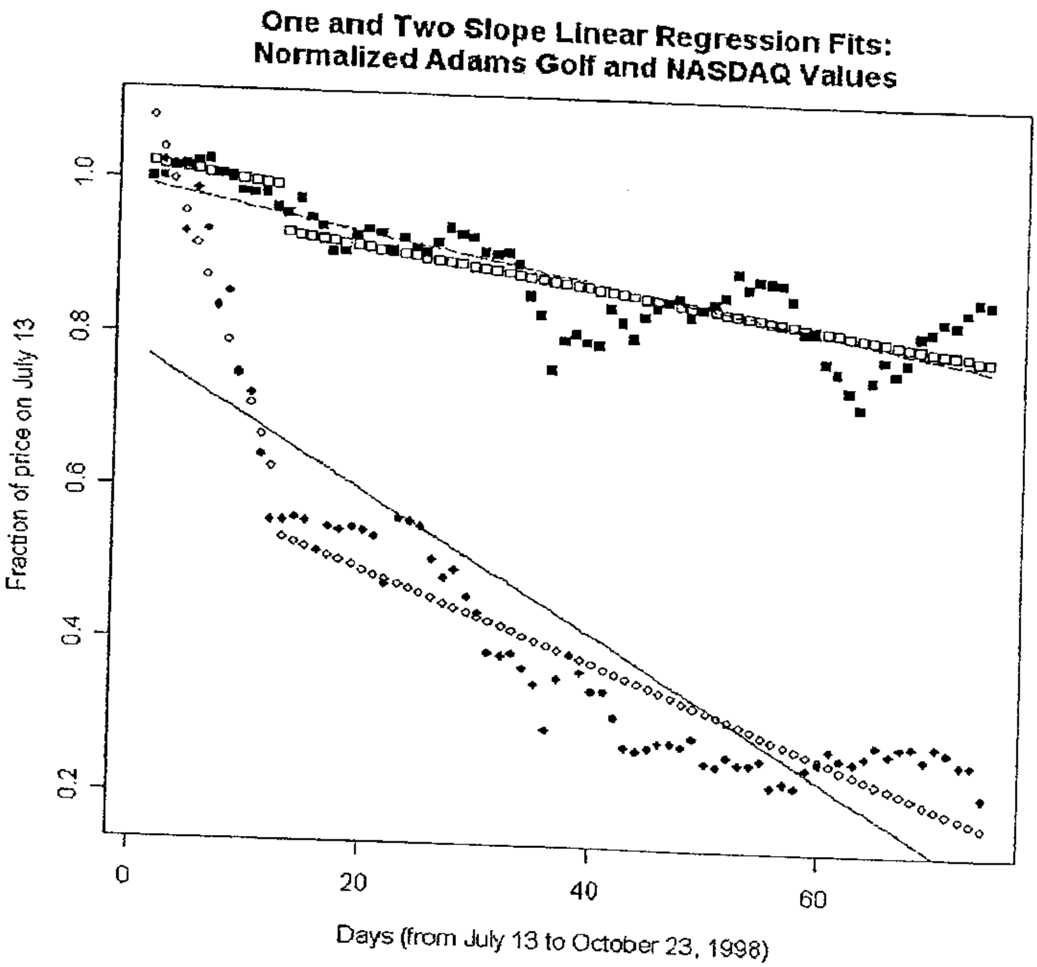
in the interval (-0.1061, 0.1061). The residuals outside the 95% interval are what James terms "statistically significant", and occur on the dates August 12, September 1, and October 23. These same dates and August 4, September 21, September 29, and October 2 are outside the 90% interval.

One and Two-slope models for Adams Golf price and for the NASDAQ Index

One and two-slope linear regression models were fitted to (1) explain Adams Golf price as a function of "time" (day) in the 75 day class period; and, then, (2) to the NASDAQ Index as a function of "time" (day) in the same period. In the two-slope models the best least squares fit to the data allowed the slope and the intercept of the fitted lines to change between the first 12 days and the remaining 62 days. The change-point of July 28 was chosen to reflect the sharp drop in the Adams Golf stock price which occurred from the first to the twelfth day, and nowhere else in the data. For convenience of comparison, the prices of both stocks were normalized to their price on July 13, 1998.

The following graph illustrates the different fits. Following the graph are printouts from the regressions, and commentary.

Figure 2



Here the filled diamonds are the normalized price data fro Adams Golf. The corresponding one and two-slope fits are indicated by the solid line and open diamonds, respectively. The filled squares are the normalized price data for the NASDAQ Index. Their corresponding one and two-slope fits are indicated by the dashed line and the open squares.

Printouts from the regressions for Adams Golf (one slope and two slope), for the NASDAQ Index, and commentaries:

ADAMS GOLF REGRESSIONS

Single slope model for Adams Golf price over time:

```
> summary(golf.fit.6)
```

```
Call:
lm(formula = PIBC$adgo.price.norm ~ PIBC$time)

Residuals:
     Min       1Q   Median       3Q      Max
-0.16009 -0.07425 -0.04307  0.06635  0.26668

Coefficients:
              Estimate Std. Error t value Pr(>|t|)
(Intercept)  0.7781500  0.0249293   31.21   <2e-16 ***
PIBC$time   -0.0091061  0.0005776  -15.76   <2e-16 ***
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 0.1061 on 72 degrees of freedom
Multiple R-Squared: 0.7754,     Adjusted R-squared: 0.7722
F-statistic: 248.5 on 1 and 72 DF,  p-value: < 2.2e-16
```

Two-slope model for Adams Golf price over time:

```
> summary(golf.fit.7)

Call:
lm(formula = PIBC$adgo.price.norm ~ PIBC$time * PIBC$drop12)

Residuals:
       Min         1Q     Median         3Q        Max
-0.1098721 -0.0423178 -0.0001569  0.0481051  0.0888530

Coefficients:
                         Estimate Std. Error t value Pr(>|t|)
(Intercept)             0.6115428  0.0177202  34.511  < 2e-16 ***
PIBC$time              -0.0058731  0.0003767 -15.590  < 2e-16 ***
PIBC$drop12             0.5102016  0.0371673  13.727  < 2e-16 ***
PIBC$time:PIBC$drop12  -0.0354474  0.0044551  -7.957 2.20e-11 ***
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 0.05308 on 70 degrees of freedom
Multiple R-Squared: 0.9454,     Adjusted R-squared: 0.943
F-statistic: 403.8 on 3 and 70 DF,  p-value: < 2.2e-16
```

There is a substantial difference between these two models. The single slope model has an R-Squared of 0.7754, the two-slope model an R-Squared of 0.9454. Fitting two-slopes accounts for the linear variation in all but about 5% of the data, compared to over 22% unaccounted for by the single slope model. The effective change in slope is from about a 4% average decrease per day in normalized price before day 13, to about 0.6% average decrease per day from day 13 on.

Furthermore, the difference between the two models is statistically significant. This can be found by analyzing the change in least squares between the two models, using the F distribution. A summary of this test follows:

```
> anova(golf.fit.7,golf.fit.6)
Analysis of Variance Table

Model 1: PIBC$adgo.price.norm ~ PIBC$time * PIBC$drop12
Model 2: PIBC$adgo.price.norm ~ PIBC$time
  Res.Df     RSS Df Sum of Sq      F    Pr(>F)
1     70 0.19726
2     72 0.81113 -2  -0.61388 108.92 < 2.2e-16 ***
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

The above results demonstrate that the two-slope model provides a statistically significantly better fit than the one-slope model, and provides a substantially more accurate model of the price behavior. In other words, the apparent change in the rate of decline of Adams Golf stock price is statistically significant.

NASDAQ REGRESSIONS

A quite different picture is found for the NASDAQ index. While the two-slope NASDAQ model is barely statistically significantly better than the on-slope NASDAQ model, it adds little to the explanation, and the difference in the slope between the 12 days of returns (July 13-28, 1998) and after is minimal, and not statistically significant. Consistent with these observations, we can say that neither the decrease in NASDAQ over time, nor the difference in that decrease between July 13-28 and after, provides an explanation for the decrease in Adams Golf returns over the whole period, or for the change in the rate of decrease in Adams Golf returns between July 13-28 and after.

Single slope model for the NASDAQ Index over time:

```
> summary(golf.fit.8)

Call:
lm(formula = PIBC$nasdaq.price.norm ~ PIBC$time)

Residuals:
      Min        1Q   Median       3Q      Max
-0.125251 -0.025523 0.003834 0.028441 0.087319

Coefficients:
              Estimate Std. Error t value Pr(>|t|)
(Intercept)  0.9941651  0.0099199  100.22   <2e-16 ***
PIBC$time   -0.0029484  0.0002299  -12.83   <2e-16 ***
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

```
Residual standard error: 0.04224 on 72 degrees of freedom
Multiple R-Squared: 0.6956,     Adjusted R-squared: 0.6914
F-statistic: 164.5 on 1 and 72 DF,  p-value: < 2.2e-16
```

Two-slope model for the NASDAQ Index over time:

```
> summary(golf.fit.9)

Call:
lm(formula = PIBC$nasdaq.price.norm ~ PIBC$time * PIBC$drop12)

Residuals:
      Min        1Q    Median        3Q       Max
-0.116025 -0.020883  0.007067  0.023563  0.075328

Coefficients:
                         Estimate Std. Error t value Pr(>|t|)
(Intercept)             0.9642951  0.0133869  72.033  < 2e-16 ***
PIBC$time              -0.0023750  0.0002846  -8.345 4.23e-12 ***
PIBC$drop12             0.0592683  0.0280784   2.111   0.0384 *
PIBC$time:PIBC$drop12  -0.0011811  0.0033656  -0.351   0.7267
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 0.0401 on 70 degrees of freedom
Multiple R-Squared: 0.7332,     Adjusted R-squared: 0.7218
F-statistic: 64.12 on 3 and 70 DF,  p-value: < 2.2e-16
```

The lack of significance of the fourth coefficient ("`PIBC$time:PIBC$drop12`") in the regression summary indicates that there is no statistically significant change in slope for the NASDAQ Index between July10-28 and after. For this reason, we can say that the change in rate of decline in NASDAQ price between July10-28 and after cannot account for the (dramatic) change in the rate of decline of Adams Golf returns between July 13-28 and after, which is statistically significant.

At the same time the difference between the two NASDAQ models—the one-slope and the two-slope models--is statistically significant:

```
> anova(golf.fit.9,golf.fit.8)
Analysis of Variance Table

Model 1: PIBC$nasdaq.price.norm ~ PIBC$time * PIBC$drop12
Model 2: PIBC$nasdaq.price.norm ~ PIBC$time
  Res.Df      RSS Df Sum of Sq     F   Pr(>F)
1     70 0.112578
2     72 0.128436 -2 -0.015857 4.93 0.00993 **
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

However, here, for NASDAQ prices, while the two-slope model provides a better fit, the change is small; R-Squared increases from 0.6956 to 0.7332, so that only 3% more of the

variation in NASDAQ price is accounted for by the two-slope model. Furthermore, not all regression coefficients in the two-slope model are significant. The price behavior of the NASDAQ Index normalized price has a constant average decrease of about 0.25% per day from July 13 to October 23.

EXPLANATION OF "RETURN" FOR A GIVEN DATE (DAY)

- The return for Adams listed on the row at day 1 (see excerpt below from spreadsheet of data) is defined as the Adams price on day 2 less its price on day 1 all divided by its price on day 1. Similarly for the indexes.
- It may be easier to read this to have put the above return given in the row for day 1 on the row for day 2, because it is really the return over day 2 or to day 2.
- However, given the way the returns are listed, there are 12 Adams returns calculated using data from day 1 through ay 13 (giving 12 returns) that include the last big drop of -0.131 on day 12. So there are exactly 12 returns at the beginning that are sharply downward trending, notwithstanding the two positive returns occurring on days 2 and 8, which should be noted.
- The 12 returns are accurately described as the returns of the market on the 12 days of 07-13-98 ("day 2" below) through 07-28-98 ("day 13" below).

day	date	adams	adamscr	nasdaq	nasdaqcr	bloomberg	bloombergcr	day
1	07-10-98	18.375	-0.027	1943.04	0.012	110.45	-0.009	1
2	07-13-98	17.875	0.021	1965.53	0.001	109.45	0.005	2
3	07-14-98	18.25	-0.003	1968.41	0.013	110.05	-0.009	3
4	07-15-98	18.188	-0.086	1994.54	0.003	109.11	-0.018	4
5	07-16-98	16.625	0.060	2000.56	0.004	107.16	0.003	5
6	07-17-98	17.625	-0.053	2008.76	0.003	107.48	-0.008	6
7	07-20-98	16.688	-0.105	2014.25	-0.017	106.60	-0.023	7
8	07-21-98	14.938	0.021	1979.14	-0.005	104.19	-0.002	8
9	07-22-98	15.25	-0.127	1969.75	-0.018	103.96	-0.049	9
10	07-23-98	13.313	-0.033	1935.22	-0.002	98.83	-0.002	10
11	07-24-98	12.875	-0.112	1930.99	0.001	98.62	-0.020	11
12	07-27-98	11.438	-0.131	1933.26	-0.019	96.66	-0.019	12
13	07-28-98	9.938	0.000	1896.53	-0.008	94.87	-0.014	13

14	07-29-98	9.938	0.009	1881.49	0.020	93.54	0.000	14
15	07-30-98	10.031	-0.009	1919.62	-0.025	93.55	-0.016	15

A. 81

To: Mark Gonsalves April 15, 1998

From: Chris Beebe

Re: Parallel Exports/Grey Market Sales of Adams' *Tight Lies*

The transshipment of *Tight Lies* clubs has been detected recently, both in the United States and in Canada. Incidences that I have been made aware of are

- King Par transshipping clubs to accounts in the Boston area
- Costco receiving a stock of Adams' products from unknown sources
- Jay told me that some clubs with light shafts, at that time only being shipped to Asia, once found their way into at least one of his accounts

These grey market operations hurt Adams Golf no matter where they occur, for the outlets that receive these goods 1) have not been approved as an Adams' outlet for a variety of reasons, 2) are not required to standby our pricing policies, which can impact our good accounts and 3) can cost Adams Golf a great deal of money and/or sales. One action that I would recommend taking is the adoption of a policy similar to that of Titleist's (see attached sheet).

Regarding the Canadian Costco problem, I have spoken with WDC MacKenzie as well as others involved in the golf industry in Canada. They all confirm that in the past, companies that faced similar problems in the Canadian market took one of two actions:

1) The firms went into Costco and purchased any inventory of clubs there, or
2) The firms took inventories of the clubs in each of the affected accounts and issued credits or discounts which allowed these outlets to either match or become competitive with the Costco price (one firm internally divided these accounts into A/B/C categories, each of which received slightly different treatment). Once Costco has sold out of their products, the retail prices were brought back to the price level prevailing before Costco upset the market. (Callaway, Ping and Taylor Made all chose this option in the recent past.)

I would not recommend purchasing any Costco stock, for that only promotes inventory turns and encourages the discounter to buy more Adams' products (this happened to Lynx in Hawaii). While the other option can cost a good bit, it seems to be the better move, both from a tactical point of view as well as from the publicity standpoint. Additionally, as other companies have taken similar actions, it is expected that any major player in the golf market will react in such a way.

This problem was first discovered on March 23rd, and brought to Adams' attention shortly thereafter. I believe that Adams Golf should make a decision on how to respond to this problem, for the longer it drags on the more it could impact our relations with the Canadian retailers.

EXHIBIT
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ADAMS 005045

A. 82

DATE Apr. 27/06 EXHIBIT NO. 12
EXAM. OF Greg Pratt
Kim Morosse
COURT REPORTER CSR(A)
Amicus Reporting Group

July 4, 1998

Adams Golf update:

1. WDC Sale of Adams clubs for the 1998:

January	378 units
February	1,014
March	3,629
April	2,788
May	2,293
June	3,083
Total	13,185 units

Please note that these are the invoiced sales to our Canadian customers. These statistics are not based on the clubs purchased from Adams. These are approximate numbers, based on an average wholesale dollar sale. They are accurate enough to determine sales history and trends.

2. Inventory:
The stock of Adams clubs on-hand as of July 3, 1998 is 6,000 units.

At the present time we have two orders packed up and ready to be shipped from Adams. They are PO# 2017: 2543 units, and PO# 2018: 2212 units. It would be my recommendation to take delivery of #2017, to arrive at WDC about the end of July. I would recommend the cancellation of #2018. We would then draw on the Adams stock as the business warrants it. Based on our present trends I cannot recommend shipping both of these orders to WDC in the next short while.

3. Sales blend by category:

		1998 Actual	1998 Projected	1997 Actual
a.	Drivers	1 %	3 %	4 %
	3 Wood	20	22	22
	Original 16 Degree	53	44	50
	5 Wood	13	13	13
	7 Wood	11	11	11
	9 Wood	2	7	-
	Total	100 %	100 %	100 %

MCK01356

b. Graphite vs. Steel:

	1998 Actual	1997 Actual
Graphite	73 %	76 %
Steel	27	24
Total	100 %	100 %

c. Right vs. Left Hand:

	1998 Actual	1997 Actual	Totals
Right Hand	82 %	18 %	100 %
Left Hand	82	18	100 %

Greg Pratt
National Sales Manager

A. 83

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

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IN RE: ADAMS GOLF, CA. NO.

INCORPORATED 99-371-KAJ

SECURITIES LITIGATION

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Wednesday, August 9, 2006

Oral deposition of GARY L. FRAZIER, was taken pursuant to Notice, at the offices of SIMPSON THACHER & BARTLETT LLP, 425 Lexington Avenue, New York, NY 10017-3954 on the above date before DEBRA G. JOHNSON-SPALLONE, CSR, RPR, Notary Public, and a Federally Approved Reporter of the United States District Court commencing at or about 10:40 a.m.

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before they sent memos out 02:43:38PM
to channel members from 02:43:40PM
Beebe or from Gonsalves or 02:43:42PM
others talking about, or 02:43:47PM
reclarifying, their position 02:43:49PM
on gray marketing. 02:43:50PM
I summarize later some 02:43:53PM
of the steps -- this is on 02:43:56PM
page 14 -- where I felt this 02:43:57PM
-- in paragraph 44, that I 02:44:04PM
feel these steps taken were 02:44:06PM
reasonable and effective. 02:44:07PM
So, I don't -- based 02:44:09PM
on the record, they may -- 02:44:11PM
they obviously perceived it, 02:44:13PM
but I don't believe, as a 02:44:14PM
marketing expert, that they 02:44:16PM
were slow to react. 02:44:19PM
- - - 02:44:19PM
BY MR. COLLINS: 02:44:19PM
Q. Okay. 02:44:20PM
One more document, 02:44:20PM
Exhibit-299, which is a memo to Scott 02:44:22PM
Levins, Eddie Tate. 02:44:26PM

A. Thank you. 02:44:29PM
Q. And the memo goes on awhile, 02:44:33PM
but I am directing your attention to a 02:44:34PM
particular paragraph on the second page. 02:44:36PM
A. Okay. 02:44:38PM
Q. Paragraph at the bottom. 02:44:41PM
Middle bottom; as the Costco issue 02:44:43PM
worsened, retailers complained that Adams 02:44:45PM
was both evasive and slow with their 02:44:47PM
response. Retailers will point out how 02:44:49PM
other manufacturers who were quick to 02:44:53PM
address, fix and remedy the problems, 02:44:56PM
while we appeared to be myered in a myriad 02:44:58PM
of other conflicts. With this delay 02:45:02PM
came less in support from many of our 02:45:03PM
retailers, especially once word of 02:45:05PM
Costco's inventories growth spread. 02:45:08PM
That statement by Eddie 02:45:11PM
Tate, who was Florida regional account 02:45:14PM
coordinator, as indicated here, that also 02:45:16PM
has no impact on your -- on your opinion 02:45:18PM
here? 02:45:22PM
MR. GLUCKOW: Objection. 02:45:23PM
Vague and ambiguous. 02:45:23PM

You can answer. 02:45:25PM
THE WITNESS: I read 02:45:25PM
it. Everything I read I 02:45:26PM
considered. 02:45:28PM
Ochoa had mentioned 02:45:32PM
in her deposition, and I 02:45:34PM
agree, that gray marketing 02:45:35PM
effects different 02:45:39PM
manufacturers differently 02:45:39PM
in the same industry. 02:45:41PM
In my opinion, as a 02:45:43PM
marketing expert, the steps 02:45:46PM
taken by Adams to deal with 02:45:47PM
gray market sales were 02:45:50PM
effective, and that they 02:45:52PM
needed to focus elsewhere on 02:45:56PM
marketing challenges much 02:45:58PM
more important to the firm 02:46:01PM
in ensuring that it's going 02:46:03PM
to be successful in this 02:46:04PM
industry. 02:46:06PM
- - - 02:46:06PM
BY MR. COLLINS: 02:46:06PM
Q. All right. 02:46:06PM

I don't want to be 02:46:07PM
argumentative, and I am not challenging in 02:46:08PM
this deposition, sir. 02:46:12PM
Your life background in 02:46:13PM
marketing -- 02:46:17PM
A. I am used to dealing with my 02:46:17PM
wife, so, go ahead. 02:46:18PM
Q. -- but you have said earlier 02:46:20PM
today, Professor, that, unlike some pointy 02:46:22PM
headed intellectual in the classroom, whom 02:46:28PM
might not deal with real world situations, 02:46:30PM
you are somebody who rolls up your sleeves 02:46:35PM
and you dealt with corporate management 02:46:37PM
and you have tried to see the way 02:46:40PM
marketing theory works in the real world. 02:46:45PM
A. Right. 02:46:47PM
Q. Is that fair? 02:46:47PM
A. Right. 02:46:49PM
Q. I am struck by how 02:46:52PM
cavalierly, with all due respect, you are 02:46:57PM
introduced to a flood of statements by 02:46:59PM
Costco management -- now, that would be 02:47:05PM
shocking. 02:47:07PM
I am struck by how you seem 02:47:07PM

trenches in October '98 or 03:11:21PM
March '99, you don't have 03:11:24PM
all of the data. You don't 03:11:25PM
have time to really reflect 03:11:26PM
on things. You don't -- you 03:11:28PM
don't have two weeks to sit 03:11:31PM
down and only read documents 03:11:32PM
related to this one minor 03:11:33PM
issue when you have got so 03:11:34PM
many other issues bombarding 03:11:36PM
you in the marketing like 03:11:37PM
product, price, place, 03:11:38PM
promotion. It is not easy 03:11:40PM
to make the calls that they 03:11:41PM
did. 03:11:43PM
I am not -- but the key 03:11:43PM
here for me is; I have the 03:11:46PM
luxury of having a lot of 03:11:50PM
information. I have the 03:11:51PM
background. I have the 03:11:52PM
experience. I have 03:11:53PM
expertise. I have facts 03:11:53PM
in this case to render my 03:11:55PM
opinions, and that is what 03:11:57PM

I've have done. 03:11:58PM
- - - 03:11:58PM
BY MR. COLLINS: 03:11:58PM
Q. Okay. 03:11:58PM
Now, are you familiar with 03:12:10PM
the fact that in 1997, 10K -- 03:12:12PM
A. Of Callaway? 03:12:18PM
Q. Callaway. 03:12:19PM
MR. GLUCKOW: Stop 03:12:20PM
reading his mind. Let him 03:12:21PM
get his question out. 03:12:23PM
THE WITNESS: Sorry. 03:12:24PM
- - - 03:12:24PM
BY MR. COLLINS: 03:12:24PM
Q. Callaway addressed gray 03:12:26PM
marketing as a risk factor of Callaway. 03:12:28PM
Are you generally familiar 03:12:36PM
with that? 03:12:37PM
A. I know -- I know they raised 03:12:37PM
it as a negative. 03:12:38PM
Q. Okay. 03:12:39PM
At that time, how extensive 03:12:42PM
was gray marketing at Callaway, if you 03:12:44PM
know? 03:12:46PM

MR. GLUCKOW: Objection. 03:12:46PM
Overbroad, vague and 03:12:47PM
ambiguous. Calls for 03:12:48PM
speculation. 03:12:50PM
But you can answer. 03:12:50PM
Outside the scope. 03:12:51PM
You can answer. 03:12:52PM
THE WITNESS: Yeah, I 03:12:52PM
don't know for sure. 03:12:53PM
- - - 03:12:53PM
BY MR. COLLINS: 03:12:53PM
Q. Now, what does it mean to 03:12:53PM
you that Callaway, in its '97 10K, raised 03:12:55PM
it as a negative? 03:12:59PM
Does that have any impact on 03:13:00PM
your opinion? 03:13:02PM
A. Yes, for Callaway or -- 03:13:02PM
Let me put it this way. 03:13:04PM
And, again, you know, I do 03:13:06PM
agree with Ochoa on the point that, gray 03:13:09PM
market sales attract different firms from 03:13:12PM
the same industry differently. 03:13:14PM
Callaway had been the only 03:13:15PM
game in town for large head drivers since, 03:13:17PM

like, '91. It was not until '97/'98 that 03:13:21PM
others started to introduce a lot of their 03:13:24PM
clubs. 03:13:27PM
Callaway was it. They were 03:13:27PM
not only hot over a year or two. They 03:13:29PM
were there, and they had irons and putters 03:13:32PM
and drivers and balls and everything else. 03:13:34PM
A gray marketer, a diverter, 03:13:38PM
will always be more attracted to products 03:13:40PM
from a Callaway than they would to an 03:13:43PM
Adams, because they are easier to sell, 03:13:47PM
and as brand strength, it has brand 03:13:49PM
prestige. It has brand awareness. 03:13:53PM
If a golf shop did not 03:13:54PM
carry, Callaway; oh, my God, what did I do 03:13:56PM
to deserve this? Because they'd have no 03:14:00PM
credibility with many golfers. 03:14:03PM
So, is that surprising to me 03:14:05PM
with those characteristics that there be 03:14:06PM
tremendous pressure for diverters to 03:14:06PM
acquire Callaway clubs and get them to 03:14:09PM
anyone? 03:14:11PM
So, given its level of 03:14:11PM
sales, over 900,000,000; given its brand 03:14:13PM